

## APPEAL NO. 010028

This case returns following our remand in Texas Workers' Compensation Commission Appeal No. 002388, decided November 27, 2000, for reconstruction of the record. A contested case hearing on remand was held on December 18, 2000. The hearing officer who had originally heard the case had left employment with the Texas Workers' Compensation Commission. With respect to the issues before him, the hearing officer determined that the respondent (claimant) sustained a compensable injury on \_\_\_\_\_, and that she had disability, as a result of her compensable injury, from May 10, 2000, through the date of the hearing on remand, December 18, 2000. In its appeal, the appellant (self-insured) contends that the hearing officer's injury and disability determinations are against the great weight of the evidence. The appeal file does not contain a response to the self-insured's appeal from the claimant.

### DECISION

Affirmed.

The claimant testified that she injured her left shoulder and abdomen moving a large trash can full of wet trash from a school cafeteria to the dock, using a 2-wheel dolly in the course and scope of her employment as a custodian with the self-insured. The claimant sought medical treatment from Dr. J, a chiropractor, on May 10, 2000. In a report of that date Dr. J diagnosed an abdominal strain and a left shoulder sprain/strain and took the claimant off work. Dr. J has continued the claimant in an off-work status. Mr. S, the claimant's supervisor, testified that he had counseled the claimant about taking out the wet garbage and advised her that she was not performing up to expectations in regard to that duty. Mr. S stated that he learned the claimant was alleging a work-related injury after that performance action and that he thought her claim was retaliatory in nature.

The hearing officer is the sole judge of the weight and credibility of the evidence, including the medical evidence. Section 410.165(a); Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14<sup>th</sup> Dist.] 1984, no writ). Injury and disability issues can be established by the testimony of the claimant alone, if it is credited by the hearing officer. Texas Workers' Compensation Commission Appeal No. 92069, decided April 1, 1992. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Sufficient evidence supports the hearing officer's determination that the claimant sustained a compensable injury on \_\_\_\_\_, and that she had disability from May 10, 2000, through the date of the hearing on remand, December 18, 2000. Nothing in our review of the record reveals that the injury and disability determinations are so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

---

Elaine M. Chaney  
Appeals Judge

CONCUR:

---

Robert E. Lang  
Appeals Panel  
Manager/Judge

---

Robert W. Potts  
Appeals Judge